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Date: November 29, 2007 Name: Carolyn Beason-Wright Signature: Carolyn Beason-Wright

GROUP ART UNIT 2615

Our Case No.: 11336/926 (P02090US)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Christian Brüelle-Drews

Serial No.: 10/528,870

Filed: March 24, 2005

For: AUDIO SYSTEM WITH BALANCE
SETTING BASED ON INFORMATION
ADDRESSES

Group Art Unit: 2615

Examiner: Lao, Lun S.

Confirmation No. 6224

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This paper requests a pre-appeal review of the final rejection of claims of this application pursuant to the Pre-Appeal Brief Conference Pilot Program. A Notice of Appeal is filed concurrent with this Request and included herein. Also enclosed is a one (1) month extension of time from the original notice of appeal deadline of October 30, 2007 to November 30, 2007.

The Final Rejections

All of the final rejections of the claims of this application are based on the disclosure of a single primary reference, U.S. Pat. No. 7,190,798, ("Yasuhara"). Claims 1, 6-8, 10-14, 19-25, 28, 31-33, 38-45, and 55 are finally rejected under 35 U.S.C. §102 as anticipated by Yasuhara. *See*, Office Action mailed July 30, 2007, pg. 3. Claims 2, 9, 27, 35, 46, 49-51 and 53, 56 are finally rejected 35 U.S.C. §103 as unpatentable over Yasuhara. *See*, *id.*, pg. 9. Claims 3-5 are finally rejected under 35 U.S.C. §103(a) as being unpatentable over Yasuhara in view of U.S. Pat. No. 6,114,774. *See*, *id.*, pg. 12. Claims 15-16, 18, 29-30 and 36, 56 are finally rejected 35 U.S.C. §103(a) as unpatentable over Yasuhara in view of U.S. Pat. No. 6,157,725. *See*, *id.*, pg. 13. Claims 34 and 52 are finally rejected 35 U.S.C. §103 as unpatentable over Yasuhara in view of U.S. Pat. Pub. 2004/0071304. *See*, *id.*, pg. 17.

I. Clear Error Applicable to All Rejections

Applicant respectfully submits the rejections of the pending claims are improper because the rejections are based upon clear errors in fact. In addition, the rejections of the pending claims are improper because the rejections fail to identify in the relied-upon art a teaching, suggestion, or disclosure of each and every limitation of the respective claims as required to establish a *prima facie* rejection.

Applicant submits that Yasuhara fails to teach or suggest, and is in fact is devoid of any mention of, a "balance setting" or "a respective balance setting for each respective audio source", or functions and interfaces related to one or a plurality of balance settings, as recited in the rejected claims. As a result, the relied upon art fails to disclose, teach or suggest each and every limitation of each rejected claim. *See generally*, Applicant's Expedited Response to Final Rejection dated October 1, 2007, pages 14-18, hereinafter "Response" or "Applicant's Response."

II. Clear Errors of fact in the Office Action Mailed July 30, 2007

The Examiner identifies Yasuhara Fig. 1-3 and 9, col. 4, lines 10 – 58, col. 8, lines 20 – col. 9, line 9, and col. 10, line 36 – col. 11, line 67 as anticipating Claims 1, 6-8, 10-14, 19-25, 28, 31-33, 38-45, and 55. The rejections specifically rely upon col. 10, line 36 – col. 11, line 67 throughout. Yet, as follows, Applicant submits that Yasuhara is devoid of any teaching or suggest of even a single balance setting much less a respective balance setting for each audio source.

1. Figs. 1, 2, 3 and 9 of Yasuhara all fail to depict, teach or suggest a balance setting or control for a balance setting of any kind.
2. Yasuhara, col. 4, lines 10-58, includes a brief description of FIGs. 4-13 and a description of FIG. 1; but does not teach or suggest a balance setting or control of a balance setting.
3. Yasuhara, col. 8, lines 20-59, includes a description of FIG. 3 and its illustrated controls, which fails to depict a balance setting control and does not teach or suggest a balance setting.
4. Yasuhara, col. 8, lines 59-col. 9, line 9 includes a description of control switch 23, as depicted in FIG. 6, to include "a function of switching between the front control and rear control", which is not a balance setting; and does not teach or suggest a balance setting.
5. Yasuhara, includes a description of FIGs. 9-13, which contain no teaching or suggestion of a balance setting. The specific portions referenced in the rejections, i.e., col. 10, lines 36-51, 52-67, and col. 11, lines 1-10, 11-28 and 29-67 are devoid of any teaching or suggestion of a balance setting.

Indeed, the relied-upon portions of Yasuhara, either alone or in combination, fail to teach or suggest any balance setting or control of a balance setting, or each audio source having a respective balance setting, as recited in the rejected claims. Because Yasuhara fails to teach or suggest all the limitations of Applicant's claims, Applicant's claims cannot be anticipated or *prima facie* obvious. As a result, the rejection is based on a clear error in fact.

III. Clear Errors of fact in the Advisory Action

In the Advisory Action mailed October 18, 2007 ("Advisory Action"), the Examiner asserts Yasuhara as depicted in Fig. 9, elements 21-25 collectively represent "a user interface for independently setting an independent balance setting for each respective audio source." Yasuhara unambiguously describes the interface includes a volume/power switch 21, a rear power switch 22, a control switch 23, audio source selection buttons 24, and audio source operating buttons 25. But, none of the buttons or switches teaches or suggests a balance setting, or selection and control of a balance setting, for each audio source. See, Yasuhara, col. 6, lines 15-22 and col. 7, lines 36-52.

The Advisory Action also asserts that Fig. 9, col. 6, lines 15-22, and col. 7, lines 36-52, describe "each of the audio sources 82, 83, 84 or 85 is configured to contribute to the output of speaker 10 and the output of speaker 11 in a particular manner /combination, namely 'a' respective balance setting." In fact, FIG. 9 and col. 6, lines 15-22 and col. 7, lines 36-52 describes switches 21-25; but, there is no teaching or suggestion therein of a balance setting, or the selection and control of a balance setting for each respective audio source.

Moreover, the Advisory Action fails to identify any teaching or suggestion of the limitation of Claim 1 "where the control unit is further configured to adjust the balance settings based upon a user selected audio source," as described in Applicant's Response, pages 14-15.

IV. Applicant Respectfully Submits the Following Additional Errors in Fact or Failure to Identify Essential Limitations in the Rejected Claims.

A. Claims 1-11 are in Condition for Allowance.

Applicant submits that Yasuhara fails to teach or suggest Claim 1 as a whole or each and every the limitation of Claim 1 including the limitations of: "a respective balance setting for each audio source"; "a user interface for independently setting each respective balance setting of each respective audio source"; or "where the control unit is further configured to adjust the balance settings based upon a user selected audio source." (Emphasis added). See, Response, pages 14-15. Thus, Yasuhara does not anticipate Claim 1, and Claims 1-11 are in condition for allowance.

B. Claims 12-16, 18-23, 54 and 55 are in Condition for Allowance.

Applicant submits that Yasuhara fails to teach or suggest Claim 12 as a whole or each and every limitation of Claim 12 including the limitations of: "a balance setting"; **"a respective audio source balance setting ... for each respective audio source"**; or "to receive a **respective audio source balance setting for a plurality of speakers** for each respective audio source from a user interface." (Emphasis added). *See*, Response, pages 15-16. As a result, Yasuhara does not anticipate Claim 12, and therefore Claims 12-16, 17-23, and 55 are in condition for allowance.

C. Claims 24-25 and 27-31 are in Condition for Allowance.

Applicant submits that Yasuhara fails to teach or suggest Claim 24 as a whole or each and every limitation of Claim 24 including the limitations of: "a balance setting"; "to control a balance setting of the speakers **for each respective audio source**"; "to generate a user interface configured to receive an audio source balance setting **for each respective audio source**"; or "the head unit ... configured to **store each respective audio source balance setting** for each respective audio source." (Emphasis added). *See*, Response, page 16. As a result, Yasuhara does not Anticipate Claim 24, and therefore Claims 24-25 and 27-31 are in condition for allowance.

D. Claims 32-38 are in Condition for Allowance.

Applicant submits that Yasuhara fails to teach or suggest Claim 32 as a whole or each and every limitation of Claim 32 including the limitations of: "a balance setting"; "receiving selected **balance settings for selected audio sources**"; "**storing the selected balance settings ... as the respective audio source balance settings** for the selected audio sources"; or "reproducing an audio output signal ... based upon a **stored selected balance setting for one of the selected audio sources**." (Emphasis added). *See*, Response, page 16-17. As a result, Yasuhara does not anticipate Claim 32, and Claims 32-38 are in form for allowance.

E. Claims 39-42 are in Condition for Allowance.

Applicant submits that Yasuhara fails to teach or suggest teach or suggest Claim 39 as a whole or each and every limitation of Claim 39 including the limitations of: "a balance setting"; "a passenger category selection module ... configured to receive a user selected **passenger category** from a **plurality of passenger categories**"; "**each passenger category includes a respective balance setting for each audio source**"; or "a user interface module ... configured to **adjust a balance setting ... for the selected passenger category based on a respective audio source** that generates an audio output signal and the user selected passenger category." (Emphasis added). *See*, Response,

pages 17-18. As a result, Yasuhara does not anticipate Claim 39, and therefore Claims 39-42 are in condition for allowance.

F. Claims 43-45 are in Condition for Allowance.

Applicant submits that Yasuhara fails to teach or suggest Claim 43 as a whole or each and every limitation of Claim 43 including the limitations of: "a balance setting"; "the **passenger category** includes a **respective balance setting** for each of a plurality of audio sources"; "receiving an adjustment for the **balance setting** of at least one audio source for the **selected passenger category**"; or "reproducing audio output signals based on the **balance setting for each audio source**." (Emphasis added). See, Response, bottom of page 18. As a result, Claims 43-45 are in condition for allowance.

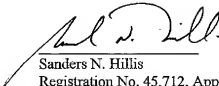
G. Claims 46 and 49-53 are in Condition for Allowance.

Applicant submits that Yasuhara fails to teach or suggest Claim 46 as a whole or each and every limitation of Claim 46 including the limitations of: "a balance setting"; "each of the menu entries represents at least one balance setting associated with each one of a plurality of audio sources"; "displaying at least one of the balance settings associated with each audio source"; "a selected passenger category"; or "adjusting the balance setting associated with the audio source." (Emphasis added). See, Response, bottom of page 20. As a result, Claims 46 and 49-53 are in condition for allowance.

V. Conclusion

The Applicant respectfully submits that the claims of this application are patentably distinguished from the cited references and in condition for allowance.

Respectfully submitted,



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